ANNEX CCC

SMALL BUSINESS ADMINISTRATION
DISASTER LOAN PROGRAMS

A. PURPOSE

1. This annex outlines the general circumstances under which the Small Business Administration makes low-interest, fixed-rate loans to repair or replace disaster damaged real estate and personal property. The U.S. Small Business Administration (SBA) can provide both direct and bank-participation disaster loans to qualified homeowners and businesses to repair or replace disaster damaged or destroyed private property when the Administrator declares a "disaster area" under SBA's statutory authority. Economic injury loans can help small businesses suffering economic losses as a result of a disaster. Residents in affected areas must contact an SBA representative to discuss their specific situation.

2. The SBA offers three types of loans:

   Home Disaster Loans are for homeowners and tenants to repair or replace disaster damages to real estate and/or personal property owned by the applicant. Tenants are eligible for personal property losses only.

   Business Physical Disaster Loans are for businesses (including landlords and non-profit organizations) to repair or replace disaster damages to property owned by the business. These losses could be to real estate, machinery and equipment, leasehold improvements, inventory and supplies. Businesses of any size are eligible to apply.

   Economic Injury Disaster Loans (EIDL) are working capital loans for small businesses and small agricultural cooperatives to assist them through the disaster recovery period. These loans are available to applicants with No Credit Available Elsewhere – if the business and its' owners cannot provide for their recovery from non-government sources.

B. CONCEPT OF OPERATIONS

1. The Governor, based upon preliminary damage assessments of residential and business properties, includes the SBA Disaster Loan Program in his request for a Presidential disaster declaration for Individual Assistance.

2. If a natural or man-made disaster does not cause enough damage to merit a Presidential disaster declaration, the Governor may request an SBA disaster declaration. The request must be in writing through the SBA Disaster Area Office, within 60 days of the date of the disaster. The request must indicate the

specific county or counties or political subdivision in which the disaster occurred. SBA will not take action on the request while a Presidential declaration is pending.

3. The Governor may request an SBA Disaster Declaration when:

    a. At least 25 homes, businesses or a combination of at least 25 homes, businesses, or other eligible institutions, in any county or smaller political subdivision, each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower; or

    b. At least three businesses, in any county or smaller political subdivision, each sustain uninsured losses of 40 percent or more of the estimated fair replacement value or pre-disaster fair market value of the damaged property, whichever is lower, and, as a direct result of such physical damage, 25 percent or more of the workforce in the community would be unemployed for at least 90 days; or

    c. The state certifies that at least five small business concerns in a disaster area have suffered substantial economic injury as a result of the disaster and are in need of financial assistance not otherwise available on reasonable terms. The SBA Disaster Area Office must receive the request within 120 days of the disaster occurrence.

4. For an SBA disaster declaration, we conduct a damage survey of the areas included in the Governor's declaration request. (See Annex DD, Request for a Presidential Declaration).

5. In Presidential disaster declarations, SBA sends representatives to Disaster Recovery Centers (DRC) to advise and assist victims with loan applications. In SBA declared disasters or when DRC's are not operating, SBA may establish Workshops in the disaster area. If no SBA Workshops are established, interested applicants can contact the SBA Disaster Area Office or the nearest bank that is cooperating with SBA.

6. In Presidential disaster declarations, the State Coordinating Officer may request the Federal Coordinating Officer to extend the deadline for SBA disaster loan applications, when necessary.

C. PROGRAM PROVISIONS

General Eligibility, Terms and Conditions

1. SBA makes disaster loans to any applicant regardless of age, sex, race, religion or origin who demonstrates a reasonable ability to repay a loan. An individual must have satisfactory credit and character.

2. The approved loan amount is based upon the actual cost of repairing and/or replacing disaster damaged real estate and/or personal property, less any insurance settlements, other reimbursements or grants that may duplicate any loan proceeds.

3. SBA will not lend funds for "upgrading" or non-disaster related repairs. SBA does not consider structural or other changes borrowers must make to comply with local building construction codes to constitute "upgrading." Borrowers may include cost of code required upgrades in loan amounts.

4. Generally, SBA will not require that borrowers pledge collateral to secure a disaster home loan or a physical disaster business loan of $10,000 or less, or an economic injury disaster loan of $5,000 or less. For loans larger than these amounts, borrowers will be required to provide available collateral. SBA will not decline a loan request because of insufficient collateral. However, we can decline a request if a borrower refuses to pledge available collateral.

5. Interest rates are fixed for the entire term of the loan. However, based on formulas set by law, they can change over time for separate disaster declarations. The actual interest rates in effect for each declaration will be publicized locally.

6. There are two interest rates. By law, the interest rate for borrowers depends on whether they have "Credit Available Elsewhere". SBA determines a borrower has "Credit Available Elsewhere" if they have sufficient funds or other resources, or the ability to borrow from non-government sources, to provide for their disaster recovery without hardship. Generally, SBA determines that over 90% of applicants do not have "Credit Available Elsewhere" and are eligible for the lowest interest rate.

7. The maximum loan term is 30 years. However for businesses with "Credit Available Elsewhere", the law limits the loan term to a maximum of three years. SBA determines the loan maturity and repayment terms based on a borrower's needs and ability to pay.

8. Borrowers normally repay loans in equal monthly installments of principal and interest. The first payment is usually due within five months from the date of the note. SBA can modify repayment terms under special circumstances. There is no prepayment penalty.

9. Borrowers repairing or replacing real estate or personal property located in a special flood hazard area must purchase and maintain flood insurance for the full insurable value of the property, for the term of the loan.

10. Applicants who have not complied with the terms and conditions of previous loan(s) are not eligible. This includes previous borrowers who failed to maintain required flood insurance.

11. Loans can be increased for mitigation. Mitigation means specific measures taken by a borrower to protect against recurring damage in similar future disasters. The increase a borrower can receive is limited to the lesser of the actual cost of the mitigation measure or 20% of the approved loan amount.

12. Use of SBA disaster funds for relocating is subject to limitations. Generally, borrowers may relocate where they need to do so for reasons beyond their control. If the borrower is forced by the state or local authorities to relocate, the amount of eligibility is the replacement cost of the property that must be abandoned. SBA considers the damaged property a total loss and the borrower may be eligible for refinancing.

Home Disaster Loans

1. Home Disaster Loans are limited to a maximum of $200,000 to repair or replace a primary residence and $40,000 to repair or replace contents (personal property). Generally, disaster loan funds do not cover rare or luxury items.

2. The amount for refinancing cannot exceed the lesser of $200,000 or the physical damage to the primary residence after reductions for insurance or other recovery. Refinancing of an existing lien(s) on a primary residence may be eligible if the borrower does not have "Credit Available Elsewhere" and

    a. The uncompensated disaster damage is 40% or more of the home's pre-disaster market value or replacement cost, whichever is less, including land value, or

    b. The uncompensated disaster damage is 50% or more of the home's pre-disaster market value or replacement cost, whichever is less, excluding land value.

Business Physical Disaster Loans

1. Business physical disaster loans are limited to a maximum $1,500,000 to repair and/or replace uncompensated damages to real estate and property. This maximum dollar amount includes refinancing, code compliance, relocation expenses and all other eligible loan purposes. The $1,500,000 statutory limit applies to the combination of physical and economic injury disaster loans. It also applies to all loans to a business and its' affiliates.

2. SBA can waive the $1,500,000 limit if the business is a major source of employment.

3. The amount of refinancing cannot exceed the physical damage to the real estate or machinery and equipment after reductions for insurance or other recovery. Refinancing of an existing lien(s) on real estate and machinery and equipment may be eligible if the borrower does not have "Credit Available Elsewhere" and

   a. The uncompensated disaster damage is 40% or more of the aggregate pre-disaster market value or replacement cost (whichever is less) of the damaged real estate and machinery and equipment, including land value; or

   b. The uncompensated disaster damage is 50% or more of the aggregate pre-disaster market value or replacement cost (whichever is less) of the damaged real estate and machinery and equipment, excluding land value.

Economic Injury Disaster Loans

1. If as a result of a declared disaster, a business has suffered substantial economic injury, with or without actual physical damage, it may be eligible to apply for an EIDL. The business must have a physical presence in a declared disaster area to be eligible.

2. A substantial economic injury is such that a business concern is unable to meet its obligations as they mature or pay its ordinary and necessary operating expenses. The loss of anticipated profits or a drop in sales is not considered substantial economic injury for this purpose.

3. SBA must review financial statements for each partner, officer, director and stockholder with 20 percent or more ownership or control. SBA may require such persons to personally guarantee repayment of the loan and, in some instances, secure the loan by pledging collateral.

4. No EIDL assistance will be made to a business that is determined by SAB to have "Credit Available Elsewhere."

5. Only for profit, operating, small business concerns as defined by the SBA using the Standard Industrial Classification Codes, are eligible.

6. An EIDL can be made for the verified amount of economic injury and operating needs. However, no loan (including any Business Physical Disaster Loan) may exceed $1,500,000. In determining the eligibility, SBA will consider:

   a. The obligations that come due during the period affected by the disaster.

b. The operating expenses that could have been met and a reasonable working capital position that could have been maintained had the disaster not occurred.

7. The amount of economic injury or operating needs does not automatically represent the dollar amount of loan eligibility, but SBA will evaluate the information provided and determine the reasonableness of the loan request.

D. RESTRICTIONS

1. Borrowers must use SBA disaster loans to restore property as nearly as possible to their pre-disaster condition, and within certain limits, to protect damaged or destroyed real property from possible future similar disasters.

2. Borrowers must return to SBA any funds received but not used as authorized to restore property to pre-disaster condition. SBA will reduce the principal balance of the loan by the amount of returned funds.

E. PENALTIES

1. An applicant who falsifies the application or falsely certifies the use of loan funds may be subject to criminal penalties.

2. A borrower who wrongfully misapplies the proceeds of a loan will be liable to SBA for one and one-half times the loan proceeds disbursed to him/her as of the date SBA learns of the wrongful misapplication.

F. AUTHORITIES AND REFERENCES

1. Small Business Act, Section 7(b), as amended

2. Small Business Administration Rules and Regulations (13 CFR), Part 123

3. Small Business Administration Fact Sheet, “Physical Disaster Business Loans”

4. PL 91-606, Disaster Relief Act of 1970, Sections 231, 234, 235 and 237

5. Real Estate Settlement Procedures Act of 1974

6. Flood Disaster Protection Act of 1973

7. Small Business Administration Fact Sheet “Disaster Loans for Home and Personal Property”

8. Small Business Administration Fact Sheet, “Economic Injury Disaster Loans for Small Business”